

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 13-11937-RGS

JOSEPH J. FENCHER, JR.,  
Petitioner

v.

GARY RODEN,  
Respondent

ORDER ON REPORT AND RECOMMENDATION  
OF THE MAGISTRATE JUDGE

July 8, 2015

STEARNS, D.J.

I agree with Magistrate Judge Boal's four essential determinations in her Report: (1) that Ground One, first part, objecting to the admission of a jailhouse conversation, rests on an issue of state law that is not reviewable on habeas corpus; (2) that Ground One, second part, fails to raise a cognizable claim under the Confrontation Clause of the Sixth Amendment; (3) that Grounds Two and Three objecting to the admission of certain opinion evidence and the exclusion of purported impeachment evidence at the state trial fails for the same reason as Ground One, first part; and (4) that the additional claims raised in Petitioner's memorandum were not presented to the state court and are therefore unexhausted (and nonreviewable).

Consequently, the Recommendation is ADOPTED and the petition is DISMISSED with prejudice. Any request for the issuance of a Certificate of Appealability pursuant to 28 U.S.C. § 2253 is DENIED, the court seeing no meritorious or substantial basis supporting an appeal. The Clerk is instructed to close the case.

SO ORDERED.

/s/ Richard G. Stearns

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UNITED STATES DISTRICT JUDGE